

ARTICLE XI - ADMINISTRATION, ENFORCEMENT AND MISCELLANEOUS

SECTION 1100. ZONING ENFORCEMENT

1101. Authority

- a. No board, agency, officer or employee of the Town shall issue, grant, or approve any permit, license, certificate, or other authorization, including Special Permits by the Commission, and variances by the ZBA, for any construction, reconstruction, alteration, enlargement or moving of any building, or for any use of land or building that would not be in full compliance with the provisions of these Regulations. Any such permit, license, certificate or other authorization, issued, granted or approved in violation of the provisions of these Regulations shall be null and void and of no effect without the necessity of any proceedings or revocation or nullification thereof, and any work undertaken or use established pursuant to any permit, license or certificate or authorization shall be unlawful, and no action shall be taken by any board, agency, officer or employee of the Town purporting to validate any such violation.
- b. These Regulations shall be enforced by the ZEO in accordance with the provisions of these Regulations.

1102. Zoning Permits

- a. No building or structure shall be erected, enlarged, structurally altered, demolished, moved or removed, wholly or partly, no use of land shall be undertaken, and no excavation for any building, structure or use shall be made, until a permit therefor shall have been issued by the ZEO. Except upon a written authorization of the ZBA, or except as provided in Subsection 385, no such Zoning Permit or Certificate of Zoning Compliance shall be issued for any building where such construction, addition, alteration, moving or use thereof shall not be in full compliance with the specific provisions of these Regulations.
- b. A Zoning Permit shall be valid for a period of one year only. The ZEO may extend the permit, provided substantial work has been done during the period.
- c. There shall be submitted with all applications for Zoning Permits three copies of a layout or plot plan drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings existing, and the lines within which the building or structure shall be erected or altered, the existing and intended use of each building, or part thereof, the number of families or housekeeping units that a building shall be designed to accommodate, and such other information with regard to the lot and neighboring lots that may be necessary to determine and provide for the enforcement of these Regulations. One copy of such plan shall be returned to the owner when such plans have been approved by the ZEO.

- d. The Zoning Enforcement Officer may require that upon the completion of the foundation for any building, addition to a building, or a structure for which a Zoning Permit shall have been issued, certification by a licensed Land Surveyor or registered Professional Engineer shall be filed by the holder of the Zoning Permit with the ZEO, which certificate shall state that the location of the foundation is in compliance with these Regulations. An as-built survey may also be required in addition to, or in lieu of, a certificate.

1103. Certificate of Zoning Compliance

- a. It shall be unlawful for an owner to use or permit the use of any building or premises, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, in its use or structure, until a Certificate of Zoning Compliance shall have been issued by the ZEO. Such Certificate shall state that such building or premises, or part thereof, and the proposed use thereof, are in complete conformity with the provisions of these Regulations. It shall be the duty of the ZEO to issue a Certificate of Zoning Compliance within ten working days after completion of improvements authorized by the Zoning Permit application, provided that he is satisfied that the building and the proposed use of the building or premises conform with all the requirements herein set forth.
- b. Under such rules and regulations as may be established by the Commission, a temporary Certificate of Zoning Compliance for part of a building may be issued for a period not to exceed three months.
- c. No non-conforming use shall be changed, or extended, without a Certificate of Zoning Compliance having first been issued by the ZEO therefor.
- d. A Certificate of Zoning Compliance shall be deemed to authorize, and shall be required for both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect as long as such building and the use thereof, or of such land, shall be in full conformity with the provisions of these Regulations and any requirements made pursuant thereto.
- e. The ZEO shall maintain a record for all Certificates of Zoning Compliance, and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected. Upon written request from the owner, the ZEO shall issue a Certificate of Zoning Compliance for any building or premises existing at the time of the enactment of these Regulations, certifying, after inspection, that the extent and kind of use and disposition conforms with the provisions of these Regulations.

1104. Violations and Penalties

- a. Any violation whatever of these Regulations or any provision herein shall be subject to the penalties provided by the General Statutes.
- b. Any owner, lessee, tenant, occupant, architect, builder, or other agent of any of those who shall violate or be an accessory to the violation of any provisions of these

Regulations, or who fails to comply with any of the requirements thereof, or who shall erect, construct, alter, enlarge, convert, move, or use any building, or use any land in violation of any provision of these Regulations, or of any detailed statements or plan submitted to, and approved by the Commission or its staff, shall be subject to the penalties as prescribed by the General Statutes. Each day of continued or renewed violation shall constitute a separate offense. The provisions of this subsection shall be in addition to, and shall not preclude, enforcement by injunction or other lawful means.

- c. Any building which shall be erected, constructed, altered, enlarged, converted, demolished, moved or removed, or used contrary to any of the provisions of these Regulations, and any use of any land or any building which shall be conducted, operated, or maintained contrary to any of the provisions of these Regulations shall be, and the same is hereby declared to be, unlawful. The proper Town authorities may institute actions in accordance with State Statutes to enforce these Regulations including but not limited to: inspecting premises; issuing a notice of violation and/or a Cease and Desist Order; notice of violation to be filed in the Darien Land Records; applying to the court for Search Warrant, fines and/or monetary penalties, citation, summons, arrest procedures, injunction, mandamus, abatement; or any other appropriate action, to prevent, enjoin, abate or remove such erection, construction, alteration, enlargement, conversion, or use, in violation of any of the provisions of these Regulations. Upon the failure or refusal of the proper local officer, board or body of the Town to institute any such appropriate action or proceeding for a period of ten days after written request by a resident taxpayer of the Town to so proceed, any three taxpayers of the Town, residing in the vicinity wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such local officer, board or body of the Town is authorized to do. The ZEO shall serve notice by certified mail, return receipt requested, addressed to the premises of such violation on the person or corporation committing or permitting the same, and if such violation shall not cease within such time as proper Town authority may specify, and a new Certificate of Zoning Compliance shall not be obtained, they shall institute such of the foregoing action as may be necessary to terminate the violation. Such notice may also be served by posting on the premises.
- d. The remedies provided for herein are cumulative and not exclusive and shall be in addition to any other remedies provided by law.
- e. If a Cease and Desist Order has been issued by the Zoning Enforcement Officer or other proper Town authority, the Planning and Zoning Commission may elect not to accept, process or approve any application with respect to the subject property unless and until all violations of the Zoning Regulations are corrected in accordance with the order. If the Planning and Zoning Commission decides not to accept, process or approve any such application, it shall forward notice of such decision to the applicant and shall also cause notice of such decision to be published in a newspaper of local circulation in accordance with the General Statutes.
- f. If during the review and processing of an application, the Planning and Zoning Commission finds that there are existing violations of the Zoning Regulations on the

subject property, it may require, as part of any approval that the violations be corrected prior to the filing of the Special Permit, signing of the final plan, issuance of the Zoning Permit or other steps necessary to finalize the application process.

SECTION 1110. ZONING AMENDMENTS

1111. Authority

The Commission, on its motion or on petition, may amend these Regulations or the Zoning Map, after public notice and hearing, in accordance with the General Statutes.

1112. Application

Any such application requesting an amendment to the Zoning Regulations and/or Zoning Map may be submitted to the Commission. Before the Commission shall consider any such application, the following requirements shall be met and information submitted by the applicant:

1112.1 Zoning Map Amendments

All proceedings to amend the boundaries or classification of a zone shall be instituted by application in writing on forms provided by the Commission. Applications shall be signed by the party proposing the amendment or by the agent for such party. The application shall include a metes and bounds description of the land to be included in the amendment. Reasons for the proposed amendment shall also be stated. The application shall also include:

- a. Seven copies of a map showing north arrow, name of the petitioner and all existing lots, dimensions, property lines, streets, and existing and proposed zoning for the area included in and within 500 feet of the subject property. The map shall be accurately drawn to a maximum scale of 50 feet or a minimum of 200 feet to the inch. The map may show other information considered pertinent by the applicant.
- b. Location, size and use of existing structures within the area of proposed change.
- c. A list of all property owners required to be notified in Section 1040 plus the names, addresses, tax map and lot numbers of all owners of property subject to the proposed amendment.

1112.2 Amendments to Regulations

All proceedings to amend these Regulations, including any change in punctuation or wording, shall be instituted by written application, in 10 copies, to the Commission setting forth the specific provisions to be amended and the proposed language thereof. Applications shall be signed by the party proposing the amendment or by the agent for such party. Reasons for the proposed amendment shall also be stated in the application.

1112.3 Fees

All applications and appeals shall be accompanied by a fee to cover the cost of administration. (See Appendix B.)

1112.4 Conceptual Plan for Development

If an amendment of the Zoning Map and/or Regulations is proposed to accommodate a specific development or type of development on a single parcel, or small group of parcels or area of less than 5 acres, then, the applicant shall provide with the application to the Commission, sufficient and detailed information (as generally described in Sections 1000 and 1020) to illustrate how the likely development will be workable and safe, in the manner and in the location as proposed in the amendment application.

1112.5 Referrals

The Commission may refer any application to amend these Regulations or the Zoning Map to any Town department or other agency the Commission deems appropriate and may request any such department or agency to submit a report to the Commission on matters that are of concern to it in connection with its own responsibility.

Any proposed change of zone or regulation affecting any properties within 500 feet of the Town line shall be referred to the Regional Planning Agency and the neighboring community or communities in accordance with the General Statutes.

1113. Public Hearing and Notice

The Commission shall hold a Public Hearing on all proposed amendments to these Regulations or Zoning Map and shall publish a notice of said hearing in a newspaper of general circulation in accordance with the General Statutes.

1114. Additional Notice for Map Amendments

For proposed Zoning Map amendments, the applicant shall give notice to all owners of property subject to the proposed amendment and owners of property as prescribed by Section 1040.

1115. Exemptions

For any proposed amendment to the Zoning Map which involves more than five acres of land and is initiated by the Commission, the provisions of Subsections 1112.1 (metes and bounds description, map scale, owners of the subject properties and abutting owners, etc.), 1112.3 (fees), and 1114 (mailing of notices) shall be waived. The notice requirements of Subsection 1113 shall be sufficient. The provisions of Subsection 1116 with respect to the time of the decision regarding a proposed amendment to these Regulations or the Zoning Map shall not apply to any proposed amendment initiated by the Commission.

1116. Commission Action

Within 65 days after the conclusion of the public hearing, the Commission shall adopt or deny the change of zone or amendment to these Regulations. Whenever the Commission adopts any change of zone or amendment to the Regulations, it shall state upon its records the reason why such change was made.

1117. Extension of Time

The applicant may consent in writing to an extension of the time periods in accordance with the General Statutes.

1118. Effective Date

Zoning Regulations, zone boundaries and any amendments or changes thereto, shall become effective at such time as may be fixed by the Commission, pursuant to the General Statutes, provided that both a copy of such regulation, boundary or change shall be filed with the Town Clerk and notice of the decision of the Commission shall have been published in a newspaper having a substantial circulation in the Town before such effective date.

1119. Plan of Development Amendment

The Plan of Development shall be used by the Commission as a guide in considering proposed zoning district amendments. If an applicant wishes the Commission to consider an amendment to the Plan of Development, he shall submit an application to the Commission to amend the Plan including a letter which outlines the reasons for the requested amendment, accompanied by a map illustrating the proposed change.

SECTION 1120. ZONING BOARD OF APPEALS (ZBA)

1121. Powers and Duties

The ZBA shall have all the powers and duties prescribed by Chapter 124, Section 8 and Chapter 44, Section 22a of the General Statutes, and by these Regulations, which powers and duties are summarized and more particularly specified below, provided that none of the following provisions shall be deemed to limit any of the power of the ZBA that is conferred by general law.

1122. Interpretation

On appeal from an order, requirement, decision or determination made by an administrative official, or on request from any official or agency of the Town, the ZBA may decide any question involving the interpretation of any provision of these Regulations, including determination of the exact location of any zone boundary line if uncertainty remains after reference to the rules specified in Subsection 314. No question of hardship shall be involved in such an appeal, and the action of the ZBA thereon shall be limited to the question of whether or not, and to what extent such order, requirement, decision, or determination was a correct interpretation of the provision that is involved, and does not extend to any variance or modification in the application of such provision or any other provision of these Regulations.

1123. Variances

If a lot shall be of unusual size, shape or topography, or if other unusual circumstances pertain to it or to any building that may be situated on it, and if such condition shall make it impossible to apply strictly to such lot a specific provision of these Regulations without resulting in exceptional difficulty or unusual hardship, but in no other case, the ZBA shall have the power to vary or adjust the strict application of the regulations or provisions of these Regulations so that substantial justice shall be done and the public safety and welfare secured.

No variance in the strict application of any provisions of these Regulations shall be granted by the ZBA unless it finds:

- a. That there are special circumstances or conditions, fully described in the findings of the ZBA, applying to the building or land for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or building in the neighborhood and have not resulted from any willful act of the applicant subsequent to the date of adoption of the regulation or regulations appealed from, whether in violation of the provisions herein or not.
- b. That, for reasons fully set forth in the findings of the ZBA, the aforesaid circumstances or conditions are such that the particular application of the conditions of these Regulations would deprive the applicant of substantial justice in the use of such land or building and the granting of the variance is necessary for substantial justice in the use of the land or building, and that the variance as granted by the ZBA is the minimum adjustment that will accomplish this purpose.

- c. That the granting of the variance shall be in harmony with the general purposes and intent of these Regulations, and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- d. In no case may a variance be granted which shall permit a use not otherwise permitted in the Town. No use variances shall be granted in residential zones. However, the ZBA may permit the reconstruction or re-establishment of a legally non-conforming use of a property or structure following its destruction by fire, storm or similar cause. Such permitted reconstruction or re-establishment shall be limited in all respects to the size, nature and intensity previously existing on the site.

1124. Location of Uses

The ZBA shall be authorized to hear and decide upon all requests to locate motor vehicle sales, service and repair uses as specified in the General Statutes.

1125. Conditions and Safeguards; Prerequisites Concerning Property in Violation

- a. In all cases where the ZBA authorizes the issuance of a Zoning Permit or Certificate of Zoning Compliance, under any of the above powers, it shall be the duty of said ZBA to attach such conditions and safeguards as may be required to protect the public health, safety and general welfare, and to ensure continual compliance with these Regulations.
- b. Porches, decks, storage buildings, signs, additions, and other structures which are built or modified without the required Zoning Permit and/or Building Permit will not be considered for a variance unless the improvement/structure or portion of the structure which is in violation is removed, dismantled, or modified so that it is of no benefit to the owner prior to the filing of, and during the pendency of the variance application.
- c. The Zoning Board of Appeals may elect not to accept, process or approve any variance application with respect to the use of property or a building or both, which is undertaken without the required Zoning Permit and/or Building Permit unless the improper use is discontinued prior to the filing of, and during the pendency of, the variance application.
- d. A determination by the Zoning Board of Appeals that the structure has been rendered temporarily of no benefit to the owner or that the use has been discontinued shall be a prerequisite to further action on the application by the Zoning Board of Appeals.
- e. If a Cease and Desist Order has been issued by the Zoning Enforcement Officer or other proper Town authority, the Zoning Board of Appeals shall process a timely appeal of the order which is filed in accordance with Subsections 1126 and 1127, but may elect not to accept, process or approve any variance application with respect to the subject property unless and until all violations of the Zoning Regulations are corrected in accordance with the order.

- f. If the Zoning Board of Appeals elects to accept an application for a variance together with an appeal from a Cease and Desist Order, it shall, nonetheless, consider the issues

raised by such appeal before acting upon the variance application in accordance with C.G.S. Section 8-6a.

- g. If the Zoning Board of Appeals elects not to accept, process or approve an application under this Section, it shall forward notice of such decision to the applicant and shall also cause notice of such decision to be published in a newspaper of local circulation in accordance with the General Statutes.

1126. General Rules

- a. Appeals to the ZBA from an order, requirement, decision or determination made by an administrative official or the Commission shall be made within 30 days from the date of the receipt of the order, requirement, publication of decision or determination.
- b. Applications or appeals to the ZBA shall be made on the form furnished by the ZBA and shall be accompanied by plot plans drawn to adequate scale showing the location of the property by street or streets and the change or addition requested or the condition in question, including topographical or other factors upon which the claimed hardship or error is based.
- c. The ZBA shall establish a schedule of fees necessary for the processing of hearings. (See Appendix B.)
- d. If a request for postponement of a hearing shall be made after publication of a public notice in a newspaper, it shall be treated as a new application including all costs.
- e. Applications denied shall not be heard by the ZBA again until 12 months after the denial or until the circumstances of the application have substantially changed.
- f. Each regulation or rule and each amendment or repeal thereof and each order of the ZBA shall be filed in the office of the ZBA and shall be a public record.

1127. Notification

Not less than ten (10) days nor more than twenty (20) days prior to the applicant's scheduled public hearing, the applicant, or his legal representative, shall mail notification of his application, including paragraph "K" of the text of the application and the scheduled date, time and place of the hearing, to the owners of each parcel or property within 100 feet of the perimeter of the subject property. This would include the owner of each condominium if any portion of subject property is within 100 feet or less of the condominium association property.

The owners and their addresses shall be determined from the latest real estate list of the Town in the Tax Assessor's Office. At the public hearing, the applicant, or his legal representative, shall submit evidence of the required mailing in the form of date stamped U. S. Postal Service Certificates of Mailing, a list showing the names and addresses of the owners of all such properties, and a copy of the notification (including attachments) which was mailed.

SECTION 1130. MISCELLANEOUS PROVISIONS

1131. Separability Clause

If any section, subsection, sentence, clause, phrase, or other part of these Regulations shall, for any reason, be held by any court of jurisdiction to be invalid, such decisions shall not affect the validity of the remaining portion of these Regulations. The Commission hereby declares that it would have passed these Regulations and each section, subsection, sentence, clause, phrase, and other parts thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or other parts be declared invalid.

1132 Short Title

These Regulations shall be known as and may be cited as the Darien Zoning Regulations.

1133. Effective Date

These Regulations shall continue effective as adopted and any amendments thereto shall become effective at such time as is fixed by the Commission pursuant to the provisions of the General Statutes.